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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/085,553 | 02/28/2002 | James W. Landes | 01-700 | 9842 |

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EXAMINER

ABDELNOUR, DENNIS J

ART UNIT PAPER NUMBER

3681

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,553

Applicant(s)

LANDES ET AL.

Examiner

Dennis J. Abdelnour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 02.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

The following is a first action on the merits of application serial 10/085,553 filed on February 28, 2002.

Claim Objections

1. Claim 24 is objected to because of the following informalities: It appears the term "for determine" in line 10 should be --for determining--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the sensor" in lines 13-14. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "first and second governor" in line 17. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-36, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Okamoto (USPN 4,709,335).

Okamoto discloses an electronic governor control for an internal combustion engine. The apparatus as shown in Figure 1 comprises a first fuel governor-calculating unit 4 and a second fuel governor-calculating unit 5. To the first unit 4, a first sensor 6 inputs a signal N showing the actual speed of the internal combustion engine 2, a second sensor 7 inputs a temperature signal T showing the temperature of the engine coolant at each instant, and a third sensor 8 inputs a first amount signal A₁ indicating the amount of depression of the accelerator pedal 22.

To the second unit 5, signals N and T are applied as well as a second amount signal A₂ from a second acceleration detector 9.

First and second fuel governor-calculating units each produce a control signal S₁ and S₂ respectively in response to the input signals. Control signal S₁ controls the engine speed in accordance with a minimum-maximum speed governor characteristic. Control signal S₂ controls the engine speed in accordance with the all-speed governor characteristic.

A governor selective device operable to be coupled with the first and second governor calculating devices to receive signals S₁ and S₂ and operable to transmit one of the first and second signals as a function of the first signal.

6. Claims 1-36, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Goode et al. (USPN 6,085,725).

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A vehicle system 20 includes a ground transport vehicle 22 in the form of a truck. Fueling is regulated by a fueling subsystem 35, which provides fuel from a fuel source, and is responsive to fuel command signals generated by engine controller 60. Throttle control is inputted to the engine controller 60 on the basis of the deflection of the accelerator pedal 42. Figure 3 illustrates engine control system 68, which includes control elements 69 that are embodied in programming or hardware of controller 60. Control elements 69 include selection routine 70 to implement a first or second throttle response based on speed or power to in accordance with the state of a first signal SS set with selection device 50. Controller 60 is also responsive to signal ACTUAL of sensor 62.

When variable SEL=GOV, device 50 provides selection between two different types of governors, (1) an all-speed governor and (2) a torque governor. The advantages between the two types of engine governors and the selection therebetween is further described in the specification. See especially col. 5, lines 38-67.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Oshizawa (USPN 4,711,211) shows an apparatus having a first and second control unit for the fuel input of an internal combustion engine.

Facsimile Transmission

8. Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 305-3597. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is

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to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mailroom processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

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(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis J. Abdelnour whose telephone number is (703) 305-5309. The examiner can normally be reached on Monday-Friday, 8:00-5:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703) 308-0830. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

dja


May 4, 2003

 5/5/03

CHARLES A. MAHMUD
SUPERVISORY PATENT EXAMINER
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